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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,443	08/31/2001	Seppo Pyhalammi	4208-4022	1836

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MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

EXAMINER

FERGUSON, KEITH

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,443

Applicant(s)

PYHALAMMI ET AL.

Examiner

Keith T. Ferguson

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-18 is/are allowed.
- 6) ☐ Claim(s) 1-12, 19-27, 33-41 and 43-54 is/are rejected.
- 7) ☒ Claim(s) 28-32 and 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2683

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 19-27, 54 and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by Hwang et al..

The claimed invention reads on Hwang et al. as follows:

Regarding claims 19, 23, 24, 25, 26 and 27, Hwang et al. discloses a mobile content delivery wireless network (fig. 2) (paragraph 0038) comprising of a wireless terminal device (fig. 2 number 226), a content/service provider (fig. 2 number 202), a delivery server (fig. 2 number 214), a mobile content delivery system (MCD) (fig. 2 number 204), and a messaging transport system (fig. 2 number 222); wherein the said wireless terminal device interacts with said elements (paragraphs 0038 through paragraph 0042); said MCD system interacts with said elements (paragraphs 0038 through paragraph 0042); said delivery system interacts with said MCI system (paragraphs 0038 through paragraph 0042); said content/service provider interacts with said MCD system (paragraphs 0038 through paragraph 0042); and said content/service provider interacts with said messaging transport system (paragraphs 0038 through paragraph 0042).

Regarding claim 20, Hwang et al. discloses a Short Message System that delivers a wake-up message to said wireless terminal device (i.e. SMS push mode) (paragraph 0053).

Art Unit: 2683

Regarding claim 21, Hwang et al. discloses receiving a content delivery message from said content/service provider (paragraphs 0038 through paragraph 0039).

Regarding claim 22, Hwang et al. discloses wherein said MCD system schedules delivery of a content delivery message via said messaging transport system (paragraph 0122).

Regarding claim 54 and 55, Hwang et al. discloses a method (fig. 3) of scheduling delivery of content from a wireless device (fig. 1 number 22) towards a wireless network (fig. 2 number 222) comprising the steps of: accessing a user profile in the network (paragraph 0122); selecting a delivery class (time or delivery) (paragraph 0122), or using a pre-defined class specified for the user (time or delivery) (paragraph 0122); having the wireless device communicate with a MCD system determining an optimized time for delivery of said content based on the delivery class (paragraph 0122); and having the wireless device send the content when permitted by the MCD system (paragraph 0122 and paragraph 0123).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammerstad in view of Hwang et al..

Regarding claims 1-3, 7 and 8, Hammerstad discloses a method (fig. 2) of delivering of a message content (advertisement) to a

Art Unit: 2683

user of a wireless terminal device (paragraph (paragraphs 0001 and 0002) comprising: receiving a request for delivery of content (paragraph 0016); said request including a user, operator specified class (delivery time) of delivery (paragraph 0016 and paragraph 0017); scheduling delivery of said content (paragraph 0021). Hammerstad differs from claim 1 of the present invention in that it does not explicitly disclose delivering said content to said wireless terminal device via said wireless network. Hwang et al. teaches delivering content (i.e. data from the internet) (paragraph 0038) to said wireless terminal device via said wireless network (paragraph 0123). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hammerstad with delivering said content to said wireless terminal device via said wireless network in order to send advertisement information to a mobile station when the mobile station is roaming, as taught by Hwang et al..

Regarding claim 4, Hammerstad discloses said content is received from said content/service provider (paragraphs 0014 and 0015).

Regarding claim 9, Hammerstad discloses charging for delivery in accordance with said class of delivery (paragraphs 0022 and 0023).

Regarding claim 10, Hammerstad discloses advertisement contents (i.e. text, pictures, audio, video, and browsing information) (paragraph 0005).

5. Claims 5,6,11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammerstad in view of Hwang et al. as applied to claim 1 above and in further view of Schwartz..

Regarding claims 5,6,11 and 12, the combination of Hammerstad and Hwang et al. differs from claims 5,6,11 and 12 of the present invention in that they do not disclose a time-delayed delivery or a predetermined time window. Schwartz teaches wireless network (paragraphs 0015, 0027,0044) comprising a delivery mode (class) where a delivery is a time delayed or a predetermined window (paragraph 0050). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the combination of Hammerstad and

Art Unit: 2683

Hwang et al. with a time-delayed delivery or a predetermined time window in order to for the network to determine when to send the advertisement based the subscriber office hours, as taught by Schwartz.

6. Claims 33-41 and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang et al. in view of Demello et al..

Regarding claims 33,34,37-40,45-49, Hwang et al. discloses a wide area network system (fig. 2) comprising: a plurality of wireless terminal devices (fig. 2 numbers 226,228,230 and 232), a cellular network (fig. 2 number 222), a content/service provider (fig. 2 number 202), a messaging transport system (fig. 2 internet), a short message system (SMS) (paragraph 0053), and a mobile content delivery (MCD) system (fig. 2 number 204) together capable of browsing (paragraph 0006), ordering (purchasing) (paragraph 0089), specifying a class (time of deliver) of delivery (paragraph 0122), scheduling (paragraph 0122), and delivering content to said plurality of wireless terminal devices (paragraph 0123). Hwang et al. differs from claim 33 of the present invention in that it does not explicit disclose a multiple base station system configuration, one or more base station controllers. Demello et al. teaches a wireless network comprising cell sites and base station controllers (fig. 3 numbers 11 and 15). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hwang et al. with a multiple base station system configuration, one or more base station controllers in order for the wireless network to control communication to and from the mobile terminal when seeking internet information, as taught by Demello et al..

Regarding claim 35, Hwang et al. discloses the wireless terminal device sends addressing information (paragraphs 0059 through paragraph 0064).

Regarding claim 36, Hwang et al. discloses the content/service provider system queries the user addressing information such mobile phone number (MSISDN) (paragraphs 0059 through paragraph 0064)

Art Unit: 2683

Regarding claim 41, Hwang et al. discloses a Short Message System that delivers a wake-up message to said wireless terminal device (i.e. SMS push mode) (paragraph 0053).

7. Claim 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang et al. in view of Demello et al. as applied to claim 33 above and in further view of Hutcheson et al..

Regarding claims 43 and 44, the combination of Hwang et al. and Demello et al. differs from claims 43 and 44 of the present invention in that they do not disclose the wireless terminal user fetches the content manually and automaticcaly based on the information in the short message. Hutcheson et al. teaches a user fetches the content manually (request) and automaticcaly (pushed) based on the information in the short message (paragraph 0017). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Hwang et al. and Demello et al. with the wireless terminal user fetches the content manually and automaticcaly based on the information in the short message in order for the mobile device to awaken when a page is present or the mobile terminal can request information from the content provider, as taught by Hutcheson et al..

8. Claims 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirby et al. in view of Schwartz.

Regarding claim 50, Kirby et al. discloses a method (fig. 7) of ordering and scheduling delivery of content (paragraphs 0025-0027) via a wireless network to a user of a wireless terminal device (fig. 1 numbers 14 and 26) comprising the steps of: viewing content via said wireless terminal device (paragraph 0026); ordering said content from said wireless terminal device (paragraph 0026); accessing a user profile in the network (paragraph 0026); and selecting a class of delivery (predetermined delivery characteristics) (paragraph 0026). Kirby et al. differs from claim 50 of the present invention in that it does not disclose delivery is a time delayed delivery by which said content is to be delivered to said wireless terminal device via said wireless network. Schwartz teaches wireless network (paragraphs 0015, 0027, 0044) comprising a delivery mode (class)

Art Unit: 2683

where a delivery is a time delay (paragraph 0050). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kirby et al. with delivery is a time delayed delivery by which said content is to be delivered to said wireless terminal device via said wireless network in order to provide the coupon to the communication device based upon where it lives or pacific time or eastern time, as taught by Schwartz.

Regarding claim 51, Kirby et al. discloses a cellular phone viewing screen (paragraph 0031).

Regarding claim 52, Kirby et al. discloses wireless terminal device capable of viewing, ordering, and specifying a class of delivery of a message content (paragraphs 0025-0027, 0031, 0042-0050).

Regarding claim 53, Kirby et al. discloses the content is delivered through an alternate network (fig. 1 number 24) based on the operator network architecture (fig. 1), the wireless network load situation (paragraph 0026), and the preferences set in the user profile (paragraph 0026).

Allowable Subject Matter

9. Claims 28-32 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 28 the prior art of record fails to teach or suggest, alone or in combination wherein said wireless terminal device interacts with said content/service provider through said MCD system, and upon content download the MCD system performs the download on behalf of the user, to the network.

Regarding claim 42 the prior art of record fails to teach

Art Unit: 2683

of suggest, alone or in combination wherein a Quality Of Service (QoS) parameter is attached to the short message in order to adjust the speed of the delivery through the network.

11. Claims 13-18 are allowed.

12. The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 13 the prior art of record fails to teach of suggest, alone or in combination a mobile content delivery (MCD) system comprising: provisioning means for maintaining user profiles; charging means for generating corresponding billing information; timing means for measuring absolute time remaining to deliver a content delivery message; queuing means for placing said content in time remaining order; locating means for identifying a wireless terminal device location; on-line and statistical analyzing means for evaluating wireless network activity; traffic analyzing means for intercepting and re-directing traffic; interfacing means for utilizing different transport mechanisms; and delivery scheduling means for scheduling delivery of said content based on an evaluation of said wireless network activity in an area in which a wireless terminal device is located.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith T. Ferguson whose telephone number is (703) 305-4888. The examiner can normally be reached on 6:30am-5:00 pm.

Art Unit: 2683

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703) 308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Keith Ferguson
Art Unit 2683
July 23, 2004

